STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-05-0071**
RUBICON LLC	*	
	*	**Enforcement Tracking No.**
AI # 1468	*	**AE-PP-03-0185**
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Rubicon LLC ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation which operates a chemical manufacturing facility consisting of a number of chemical manufacturing plants owned and operated by the Respondent, located off Louisiana Highway 75 one mile southeast of Geismar on the east bank of the Mississippi River, Ascension Parish, Louisiana ("the Facility"). Respondent operates theses plants under several air permits in effect at the facility.

II

On September 30, 2004, a Notice of Potential Penalty, Enforcement No. AE-PP-03-0185, was issued to Respondent which was based upon the Department's following findings of fact:

On or about March 17 through 19, 2003, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations.

The following violations were noted during the course of the inspection:

Two (2) valves (numbers 231098 and 021385) were observed without caps, blind flanges, plugs, or second valves and were found to be open-ended. Each of the Respondent's failure to have caps, blind flanges, plugs or second valves on each of these two (2) open-ended valves is a violation 40 CFR 63.167(a)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996, LAC 33:III.5109.A.1 and Section 2057(A)(2) of the Act.

On or about March 27 through 28, 2002, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. During the inspection, a file review was performed, which included but was not limited to, review of the facility's year 2000 Part 70 annual compliance certification dated April 2, 2001; the semiannual monitoring report dated April 2, 2001, for the second half of 2000; and the semiannual monitoring report dated October 1, 2001, for the first half of 2001.

The following violations were noted during the course of the inspection's file review as reported by the Respondent:

A. In the semiannual monitoring report dated October 1, 2001, in a letter dated April 20, 2001, and the Title V annual compliance certification dated April 1, 2002, carbon monoxide (CO) emissions permit limit of 601 tons per year (TPY) was exceeded for three (3) 12 consecutive month periods for the TDI Fume Scrubber and TDI Caustic Scrubbers (Emission Points IB and IC) in the TDI Process Unit as follows:

12-month period	**CO emissions (tons)**
February 2000 - January 2001	610
March 2000 – February 2001	623
April 2000 – March 2001	621

Each of the Respondent's exceedance of the permitted CO emissions limit for each 12-month period is a violation of State Only Specific Condition 3 of Air Permit No. 2329-V0, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

B. In the Title V semiannual monitoring report and Title V annual compliance certification both dated April 2, 2001, and in the November 17, 2000, HON Subpart G Periodic Report, eleven (11) unexcused excursions of the TDI-Phosgene Absorber TT-510 [HON Group I Process Vent which is fed to the TDI Plant Fume Scrubber (Emission Point IB)] due to exceeding the approved outlet temperature daily average value in the TDI Process Unit which

occurred during the periods of June 27 through July 4, July 16 through July 17, and July 20, 2000. The outlet daily temperature is a monitored parameter included in the Notification of Compliance Status (NOCS) to ensure that the control device is being applied, operated and maintained properly. The outlet daily temperature maximum was established at 69 degrees Fahrenheit, and the Respondent reported that for the excursions, the temperatures were greater than 70 degrees Fahrenheit. In accordance with 40 CFR 63.152(c)(2)(ii), for each excursion, the owner or operator shall be deemed to have failed to have applied the control in a manner that achieves the required operating conditions. Therefore, the Respondent failed to reduce emissions of total organic hazardous air pollutants by 98 weight percent or to a concentration of 20 parts per million by volume, whichever is less stringent. This is a violation of 40 CFR 63.113(a)(2), Part 70 Specific Condition 1 as required by Table 2 and Part 70 Specific Condition 3 of Air Permit No. 2329-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

C. In the Title V semiannual monitoring report and Title V annual compliance certification both dated April 2, 2001, and in the November 17, 2000, HON Subpart G Periodic Report, two (2) unexcused excursions for the TDI Phosgene Absorber (TT-510) outlet temperature occurred due to lack of continuous monitoring data in the TDI Process Unit on July 15 and August 26, 2000. Each failure to keep continuous records of the equipment operating parameters specified to be monitored under 40 CFR 63.114 is a violation of 63.118(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 3 of Air Permit No. 2329-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

D. In the Title V semiannual monitoring report dated April 2, 2001, the Respondent reported that the NB 1 Benzene Scrubber (Emission Point PA) which is a HON Group 2 process vent in the Aniline 2 Plant was reclassified due to a process change with a date of occurrence of August 22, 2000. Compliance testing performed in 2000 provided that the TRE value for the vent changed from greater than 4.0 to less than 4.0. The change was reported to the Department 198 days after the process change. As required by 40 CFR 63.118(h), the Respondent was to submit a report within 180 calendar days after the process change. The Respondent's failure to notify the Department within 180 calendar days of the process change that resulted in the reclassification of the vent from a HON Group 2 process vent with a TRE greater than 4.0 to a HON Group 2 process vent with a TRE less than 4.0 is a violation of 40 CFR 63.118(h) as

required by Part 70 Specific Condition 1 as noted in Tables 1, 2, and 3 of Air Permit No. 2261-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

E. State Only Specific Condition 5 of Air Permit No. 2329-V0 for the TDI Plant requires that the boiler exhaust scrubber associated with the TDI boiler (Emission Point IA) for the TDI Boiler operate with a minimum scrubber blowdown limited to 3.07 gallons per minute (gpm), minimum liquid to flue gas ratio limited to 2.06 lb/lb, and minimum scrubber pH limited to 8.38. In the Title V semiannual monitoring report and Title V annual compliance certification dated April 1, 2002, and the TDI Hazardous Waste Boiler Annual Report dated February 13, 2002, the Respondent noted that during BIF Recertification testing performed in June 2001, the minimum scrubber blowdown and pH were exceeded for 11.15 hours and 15.12 hours, respectively. The scrubber pH was exceeded for an additional 25 minutes intermittently. According to the Respondent, during this time maintenance was being performed on the pH probe. In addition, the Respondent reported in the Title V semiannual monitoring report and Title V annual compliance certification dated March 31, 2003, that on August 17, 2002, the automatic shutoff system was bypassed at approximately 2:00 p.m. due to a malfunction with the scrubber blowdown meter. During the bypass, the minimum scrubber blowdown and pH were exceeded for 3.47 hours and 0.08 hours, respectively. The automatic shutoff system was reactivated at approximately 5:30 a.m. on August 18, 2002. Each of the Respondent's exceedance of the minimum scrubber blowdown and pH is a violation of State Only Specific Condition 5 of Air Permit No. 2329-V0, the State Only Specific Condition as it requires Specific Condition 5 in Table 2 of Air Permit No. 2329-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about March 30, 2000, the Respondent met with the Department to discuss issues that would appear in the facility's upcoming Title V annual certification and semiannual monitoring report. The issues dealt with the misclassification of process streams which resulted in the failure to tag and monitor fugitive emission components as required. In the Title V annual compliance certification for 1999 dated March 31, 2000, and the Title V semiannual monitoring report dated March 31, 2000, the Respondent reported that on March 10, 2000, 200 fugitive components were discovered to have not been monitored appropriately. The Respondent noted that after an August 1998 process change, the classification of the fugitive components was changed from heavy liquid service to light liquid service. However, the components continued to be monitored visually for equipment leaks instead of the frequency specified in the HON. On March 2, 2001, the Respondent again met with the Department to clarify and elaborate on the earlier self-reported issue concerning the failure to monitor fugitive components. The Respondent noted that some components were not monitored under any fugitive program. As noted in the

Title V semiannual monitoring report and the Title V annual compliance certification both dated April 2, 2001, and in a letter from the Respondent dated March 16, 2001, the Respondent failed to tag and monitor two hundred seven (207) fugitive emission components in the MDI CMPU. On January 8, 1996, the Air Toxics Compliance Plan (Compliance Plan No. 92059) was issued to the Respondent. According to the Air Toxics Compliance Plan, Phase I of the HON leak detection and repair program for the MDI CMPU was to be implemented by April 24, 1995. The Respondent submitted to the Department, a Louisiana Fugitive Emission Program Consolidation Source Notice and Agreement with cover letter dated August 13, 1996. In the Source Notice and Agreement the Respondent chose to follow the most stringent fugitive emission program. For the Methylene Diphenyl Diisocyanate Production (MDI-1 CMPU), the Respondent chose to consolidate 40 CFR Part 63 Subpart H and LAC 33:III.2122 to the most overall stringent program, 40 CFR Part 63 Subpart H. The Consolidated Program was incorporated into the Respondent's Air Permit No. 2391-V0 as noted in the table in Part 70 Specific Condition 5 of Air Permit No. 2391-V0. According to the table, the MDI Plant complies with the overall most stringent program, 40 CFR 63 Subpart H. The requirement carries through into Part 70 Specific Condition 5 of Air Permit Nos. 2391-V1, 2391-V2, and 2391-V3.

Based on the information reported by the Respondent concerning the failure to monitor components under LAC 33:III.2122 and 40 CFR 63 Subpart H, the following violations were noted:

A. The Respondent failed to monitor pumps in light liquid service monthly in the MDI Plant, Methylene Diphenyl Diisocyanate (MDI) Chemical Manufacturing Process Unit (CMPU) as follows:

Number of Pumps	**Monitoring Frequency**	**Number of missed monitoring periods**	**Period**
2	Monthly	59	April 1995-February 2000

Each of the Respondent's failure to identify and include the pumps in the LDAR program and monitor each pump for each monthly monitoring period is a violation of 40 CFR 63.162(c) and 40 CFR 63.163(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Specific Condition 2.b of Air Permit No. 2391; Part 70 Specific Condition 5 of Air Permit Nos. 2391-V0, 2391-V1, and 2391-V2; LAC 33:III.501.C.4; the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1; and Section 2057(A)(2) of the Act.

B. The Respondent failed to monitor valves in gas/vapor and in light liquid service quarterly in the MDI Plant, MDI CMPU as follows:

Number of Valves	Monitoring Frequency	Number of missed monitoring periods	Period
60	Quarterly	7	April 1995-December 1996

Each of the Respondent's failure to identify and include the valves in the LDAR program and monitor each valve for each quarterly monitoring period is a violation of 40 CFR 63.162(c) and 40 CFR 63.168(c) which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Specific Condition 2.b of Air Permit No. 2391; LAC 33:III.501.C.4; the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1; and Section 2057(A)(2) of the Act.

C. The Respondent failed to monitor valves annually in the MDI Plant, MDI CMPU as follows:

Number of Valves	Monitoring Frequency	Number of missed monitoring periods	Period
55	Annually	3	January 1997-December 1999
5	Annually	4	January 1997–December 2000

Each of the Respondent's failure to identify and include the valves in the LDAR program and monitor each valve for each annual monitoring period is a violation of 40 CFR 63.162(c) and 40 CFR 63.168(d)(4) which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Specific Condition 2.b of Air Permit No. 2391; Part 70 Specific Condition 5 of Air Permit Nos. 2391-V0, 2391-V1, and 2391-V2; LAC 33:III.501.C.4; the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1; and Section 2057(A)(2) of the Act.

D. The Respondent failed to monitor connectors annually in the MDI Plant, MDI CMPU as follows:

Number of Connectors	Monitoring Frequency	Number of missed monitoring periods	Period
143	Annually	2	April 1995-December 1996

Each of the Respondent's failure to identify and include the connectors in the LDAR program and monitor each connector for each annual monitoring period is a violation of 40 CFR 63.162(c) and 40 CFR 63.174(b) which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Specific Condition 2.b of Air Permit No. 2391; LAC 33:III.501.C.4; the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1; and Section 2057(A)(2) of the Act.

E. The Respondent failed to monitor connectors biennially in the MDI Plant, MDI CMPU as follows:

Number of Connectors	Monitoring Frequency	Number of missed monitoring periods	Period
143	Biennial	1	January 1997-December 1998
6	Biennial	1	January 1999-December 2000

Each of the Respondent's failure to identify and include the connectors in the LDAR program and monitor each connector for each biennial monitoring period is a violation of 40 CFR 63.162(c) and 40 CFR 63.174(b)(3)(ii) which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Part 70 Specific Condition 5 of Air Permit Nos. 2391-V1 and 2391-V2; LAC 33:III.501.C.4; the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1; and Section 2057(A)(2) of the Act.

F. The Respondent failed to monitor pumps in light liquid service quarterly in the MDI Plant, MDI CMPU as follows:

Number of Pumps	Monitoring Frequency	Number of missed monitoring periods	Period
2	Quarterly	15	August 1991-March 1995

Each of the Respondent's failure to monitor each pump for each quarterly monitoring period is a violation of LAC 33:III.2121.C.1.b.v and Section 2057(A)(2) of the Act.

G. The Respondent failed to monitor valves in light liquid service quarterly in the MDI Plant, MDI CMPU as follows:

Number of Valves	Monitoring Frequency	Number of missed monitoring periods	Period
36	Quarterly	15	August 1991-March 1995

Each of the Respondent's failure to monitor each valve for each biennial monitoring period is a violation of LAC 33:III.2121.C.1.b.iv and Section 2057(A)(2) of the Act.

H. The Respondent failed to monitor valves in vapor service quarterly in the MDI Plant, Methylene Diphenyl Diisocyanate (MDI) Chemical Manufacturing Process Unit (CMPU) as follows:

Number of Valves	Monitoring Frequency	Number of missed monitoring periods	Period
23	Quarterly	15	August 1991-March 1995

Each of the Respondent's failure to monitor each valve in vapor service for each quarterly monitoring period is a violation of LAC 33:III.2121.C.1.b.ii and Section 2057(A)(2) of the Act.

I. The Respondent failed to monitor pressure relief devices quarterly in vapor service in the MDI Plant, MDI CMPU as follows:

Number of Pressure Relief Devices	Monitoring Frequency	Number of missed monitoring periods	Period
1	Quarterly	34	August 1991-December 1999
1	Quarterly	14	May 1996-December 1999

Each of the Respondent's failure to monitor one (1) pressure relief device for each quarterly monitoring period in which the pressure relief device was subject to LAC 33:III.2121 during the period of August 1991 through December 1995 is a violation of LAC 33:III.2121.C.1.b.iii and Section 2057(A)(2) of the Act.

On January 1, 1996, the requirements of LAC 33:III.2122 became effective. In August of 1996, the Respondent consolidated the programs which included LAC 33:III.2122 to the overall most stringent program, 40 CFR 63.160, Subpart H. In accordance with the Fugitive Emission Program Consolidation effective May 10, 1996, the Respondent was to monitor in accordance with the frequency requirements specified in LAC 33:III.2122.D.1(b)(ii) and the leak definition specified in 40 CFR 63.165(a). Each failure to monitor each pressure relief device for each quarterly monitoring period subsequent to January 1, 1996, until May 10, 1996, is a violation of LAC 33:III.2122.D.1(b)(ii). Following May 10, 1996, each failure to monitor the pressure relief devices is a violation of LAC 33:III.2122.D.1(b)(ii) as per the requirements of the Fugitive Emission Program Consolidation, LAC 33:III.5109.A, Part 70 Specific Condition 5 of Air Permit Nos. 2391-V1 and 2391-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about March 27, 2002, a file review of the Respondent's MDI Plant was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

A. In a letter dated June 16, 2000, the Respondent reported that the MDI 1 Process Unit was shutdown to perform various maintenance activities. During the shutdown, unanticipated maintenance activities on the MDI 1 refrigeration system required that seven tons of HFC-134a be added to the system. By June 12, 2000, Emission Point KO released a total of 13 tons of HFC-134a for the year 2000. Due to the

addition, the Respondent exceeded the permitted emissions limit of 12.15 tons per year of fluorocarbons as listed on the Annual Emission Rates sheet for Emission Point KO established in the Part 70 Operating Air Permit No. 2391-V1 for the MDI 1 Refrigeration Fugitive Emissions (Emission Point KO). This is a violation of General Condition II of Air Permit No. 2391-V1, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

B. According to the April 2, 2001, Title V annual compliance certification, on May 26, 2000, Rubicon reported that the MDI 3 Process Unit commenced operation on February 4, 2000. The Respondent's required monitoring of the heat exchangers associated with the MDI 3 Cooling Tower (Emission Point ZB) in accordance with 40 CFR 63.104 (Heat exchange system requirements) was inadvertently overlooked upon startup of the process unit. The required monitoring was completed on May 22, 2000. The Respondent failed to monitor the cooling water monthly for the first six (6) months to detect leaks as required for the heat exchangers in Table 3 of the Air Permit. Each of the Respondent's failure to monitor the cooling water for each month for the heat exchangers to detect leaks is a violation of 40 CFR 63.104(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 1 as required by Table 3 of Air Permit No. 2391-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about August 16, 2004, a file review of the Respondent's MDI Plant was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

A. In the Title V annual compliance certification dated March 31, 2004, the Respondent reported that Valve No. 402578 in the MDI 1 Unit was not monitored in the second quarter of 2003 because it was erroneously designated in the fugitive emission software as being in heavy liquid service. The valve is in vapor service. The valve was monitored in the third quarter of 2003 and was found not to be leaking. The Respondent's failure to monitor the valve once every four quarters is a violation of 40 CFR 63.168(d)(4) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 5 of Air Permit No. 2391-V3, the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996, LAC 33:III.5109.A.1, and Section 2057(A)(2) of the Act.

B. In the Title V annual compliance certification dated March 31, 2004, the Respondent reported that Agitator No. 425909 in the MDI 2 Unit had a visual leak on August 16, 2003 and is subject to monthly fugitive emission monitoring as required by the HON. The agitator is in vapor service. A new agitator was installed in September 2003 and was not monitored by the end of September 2003. According to the Respondent, the agitator was monitored in October 2003 and found not to be leaking. The Respondent's failure to monitor the agitator in September 2003 is a violation of 40 CFR 63.173(a)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 5 of Air Permit No. 2391-V3, LAC 33:III.501.C.4, the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1; and Section 2057(A)(2) of the Act.

C. In the Title V annual compliance certification dated March 31, 2004, the Respondent reported that Valve No. 421521 in the MDI 2 Unit was not monitored in the third quarter of 2003. The valve is in light liquid service. According to the Respondent, the valve was monitored in the first quarter 2004 and was found not to be leaking. The Respondent's failure to monitor the valve once every four quarters is a violation of 40 CFR 63.168(d)(4) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 5 of Air Permit No. 2391-V3, LAC 33:III.501.C.4, the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1; and Section 2057(A)(2) of the Act.

On or about March 27, 2002, a file review of the Respondent's Aniline Complex was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

A. One unexcused excursion on July 28, 2000, due to lack of continuous monitoring data for the Aniline 2 Vent Scrubber (Emission Point QA), a HON Group 2 Process Vent, with a TRE greater than 1.0 and less than 4.0 was reported in the November 17, 2000, HON Subpart G Periodic Report and the Title V semiannual monitoring report dated April 2, 2001. According to the Respondent, the daily average value of the monitored parameters was in compliance. Each of the Respondent's failure to keep up-to-date continuous records of the equipment operating parameters is a violation of 40 CFR 63.118(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 1 of Air Permit No. 2261-V0,

LAC 33:III.501.C.4, LAC 33:III.5109.A, and Section 2057(A)(2) of the Act.

B. One unexcused excursion on July 28, 2000, due to lack of continuous monitoring data for the NB 1 Benzene Scrubber (a HON Group 2 Process Vent) (Emission Point PA) was reported in the November 17, 2000, HON Subpart G Periodic Report and the semiannual monitoring report dated April 2, 2001. The Respondent noted that the primary control device for the scrubber is the Aniline 2 Boiler. According to the Respondent, the boiler was operating on the excursion day and the process vent was controlled in excess of the requirement for Group 2 Process Vents. The Respondent noted that the excursion was reported because, at the time, the requirement for continuous monitoring on the scrubber for only when the boiler was not available had not been outlined in a HON periodic report. Each of the Respondent's failure to keep up-to-date continuous records of the equipment operating parameters is a violation of 40 CFR 63.118(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 1 of Air Permit No. 2261-V0, LAC 33:III.501.C.4, LAC 33:III.5109.A, and Section 2057(A)(2) of the Act.

C. In a letter dated August 15, 2001, and in the Title V semiannual monitoring report and Title V annual compliance certification dated April 1, 2002, Rubicon noted that Part 70 Specific Condition 7.B of Air Permit No. 2261-V0 requires that the filter elements (bags) on the Aniline 2 Boiler (Emission Point QB) be inspected every six months and changed as necessary. According to the Respondent, in order for the bags to be changed, the boiler must be shutdown for approximately 72 hours. The Respondent noted that this General Condition XVII maintenance activity was not delineated in the permit. As such, the time required to inspect and change the bags has been included in the permitted Aniline 2 Boiler downtime of 720 hours in any consecutive 12 months detailed in Part 70 Specific Condition 4. The Aniline 2 Boiler bags were changed in May 2001, and when the time required to inspect and change the bags was included with the Aniline 2 Boiler downtime, the boiler was down for 744 hours in the 12 consecutive month period from June 2000 to May 2001. In a letter dated October 18, 2001, and in the Title V semiannual monitoring report and annual compliance certification dated April 1, 2002, the Respondent reported that on September 19 through 22, 2001, the Aniline 2 Boiler was down for approximately 94 hours due to an unexpected mechanical failure and repair of a boiler tube. Again, when this maintenance activity was included in the downtime for the boiler, it resulted in a downtime of 785 hours which exceeded the permitted 720 hours for the 12-month

period from August 2000 to September 2001. The Respondent's exceedance of the Aniline 2 Boiler's downtime of less than 720 hours in any twelve consecutive months is a violation of Part 70 Specific Condition 4 of Air Permit No. 2261-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

D. Part 70 Specific Condition 5 of Air Permit No. 2261-V0 requires that the scrubber be operated with a minimum scrubbing media flow of 7,600 pounds per hour (15 gallons per minute) using amine water. In the semiannual monitoring report dated September 30, 2002, and previously reported in a letter dated April 15, 2002, the Respondent reported that on March 29-31, 2002, the scrubbing media flow was 14 gallons per minute. However the Respondent does not believe that an emissions exceedance occurred. The Respondent's failure to maintain the minimum flow of 15 gpm is a violation of Part 70 Specific Condition 5 of Air Permit No. 2261-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

The Rubicon Facility Expansion Project was authorized under two Part 70 Air Permits: Permit No. 2391-V0 issued on June 17, 1998 and Permit No. 2261-V0 issued on August 10, 1998. The Respondent was to install new equipment and modify existing equipment in the MDI Plant and the Aniline Complex as part of the Rubicon Expansion Project. The project commenced operation in February 2000. According to a letter dated March 9, 2001, emissions testing as required in General Conditions VII and VIII of the air permits was conducted in July 2000 and submitted to the Department on September 29, 2000.

The Respondent reported the results of the testing to the Enforcement Division in a letter dated February 8, 2001, and again in a letter dated March 9, 2001, containing supplemental information for the MDI Plant. The results included the following exceedances of permit emissions limitations:

	VOC (tons/year)		
	Permit Limit	Test Results	Test-to-Permit Differential
KC – MDI 1 Caustic Scrubber	27.79	67.76	+39.97
KB – MDI 1 Fume Scrubber	15.74	19.49	+3.75
ZA – MDI 3 Fume Scrubber	0	1.03	+1.03

Each of the Respondent's exceedance of the permitted limitations for each speciated pollutant of VOC (tons per year) as listed on the Annual Emission Rates page, for the Emission Points KC, KB, and ZA for the MDI Plant is a violation of Louisiana Air Emission Permit General Condition II of Air Permit No. 2391-V2, LAC 33:III.501.C.4; and Sections 2057(A)(1) and 2057(A)(2) of the Act.

Additionally, the Respondent reported the results of the testing for the Aniline 2 Plant to the Enforcement Division in a letter dated February 8, 2001, and again in a letter dated March 9, 2001, containing supplemental information. The results included the following exceedances of permit emissions limitations:

	VOC(tons/year)			Non-VOC(tons/year)		
	Permit Limit	Test Results	Test-to-Permit Differential	Original Permit	Test Results	Test-to-Permit Differential
PA – NB 1 Benzene Scrubber	0.74	0.90	+0.16	0.42	0.54	+0.12
QB – Aniline 2 Boiler				85.23	114.28	+29.05
YE – Aniline 2 Vent KO Drum	0.98	9.77	+8.79			

Each of the Respondent's exceedance of the permitted limitations for each speciated pollutant of non-VOC (tons per year), listed as "Other" on the Air Quality Data Sheet page 3, for the Emission Points PA and QB, and each of the Respondent's exceedance of the permitted limitations of each speciated pollutant of VOC (tons per year) as listed on the Air Quality Data Sheet page 3, for the Emission Points PA and YE for the Aniline 2 Plant is a violation of Louisiana Air Emission Permit General Condition II of Air Permit No. 2261-V0, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

In a letter dated May 30, 2001, the Respondent noted that on July 31, 2000, emission testing was performed to confirm compliance with the permit limits for hydrogen chloride (HCl) and other compounds for the Rubicon Facility Expansion Project – MDI 1 Fume Scrubber. These test results were submitted on September 29, 2000. The test results showed an average HCl emission rate of 1.91 lb/hr or 8.37 tons/yr. Believed to have been an error, the Respondent retested the MDI 1 Fume Scrubber for HCl on April 16, 2001, which resulted in an average HCl emission rate of 0.68 lb/hr or 2.98 tons/yr. The results lowered the emissions of non-VOC

(tons/yr) for Emission Point KB – MDI 1 Fume Scrubber, however, the emissions were still above permitted limits. Based on the information provided by the Respondent, the following violation was noted:

> Each exceedance of the permitted limitations for each speciated pollutant of non-VOC (tons per year), listed as "Other" on the Annual Emission Rates page, for the Emission Point KB, is a violation of Louisiana Air Emission Permit General Condition II of Air Permit No. 2391-V2, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

A meeting was held with the Department at the request of Rubicon on August 22, 2001. A summary of the issues covered in the meeting was submitted in a September 7, 2001 letter from Rubicon which stated that the Pure 3/Anhydrous Hydrochloric Acid (HCl) Export Projects were authorized under Part 70 Air Permit No. 2391-V1 issued on May 13, 1999. The Respondent constructed the Pure 3 process in the MDI 3 Process Unit as part of the Pure 3 Project. The Anyhdrous HCl Export Project compresses anhydrous HCl from MDI 2 and MDI 3 Process Units and then exports the HCl to an offsite customer via pipeline. The Pure 3 process commenced operation on December 5, 2000. Emissions testing was conducted on the MDI 2 and MDI 3 Caustic Scrubbers as required in General Condition VII and VIII of the air permit on May 23, 24, 28, and 30, 2001. The test results submitted to the Department on July 27, 2001, showed the following:

	VOC (tons/year)		
	Permit Limit (2391-V1)	Test Results	Test-to-Permit Differential
MA-MDI 2 Caustic Scrubber	23.80	36.59	+12.79
ZE – MDI 3 Caustic Scrubber	28.01	50.06	+22.05
Total Change (tons/year)			+34.84

Each of the Respondent's exceedance of the permitted limitations for VOC (tons per year) listed on the Annual Emission Rates page, for the Emission Points MA and ZE for the MDI Plant is a violation of Louisiana Air Emission Permit General Condition II of Air Permit No. 2391-V2, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On or about August 16, 2004, a file review of the Respondent's Aniline Complex was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

> In the Title V annual compliance certification dated March 31, 2004, the Respondent reported two unexcused HON excursions. According to the Respondent, the excursions occurred on March 18, 2003, due to a lack of continuous data for the NB 1 Benzene Scrubber (a HON Group 2 Process Vent) (Emission Point PA) and the Benzene Storage Tank MT-2401. The Respondent noted that the NB 1 Benzene Scrubber was not venting to the Aniline 2 Boiler (Emission Point QB) during the excursions. The 24-hour average values for the NB 1 Benzene Scrubber compliance parameters indicate that the scrubber was operating within the range of compliance. Each of the Respondent's failure to keep up-to-date continuous records of the equipment operating parameters is a violation of 40 CFR 63.118(b)(1), for the NB1 Benzene Scrubber. Each of the Respondent's failures to monitor the parameters specified in the NOCS or in the operating permit and record the measured values of the parameters monitored for the Benzene Storage Tank MT-2401 is a violation of 63.120(d)(5) and 63.123(f)(1), respectively, which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 1 of Air Permit No. 2261-V0, LAC 33:III.501.C.4, LAC 33:III.5109.A, and Section 2057(A)(2) of the Act.

On or about August 17, 2004, a file review of the Respondent's TDI Plant was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

> In the Title V annual compliance certification dated March 31, 2004, the Respondent reported that Valve No. 324043 in the TDI Unit was not monitored in the fourth quarter of 2003 due to the valve being mislabeled in the fugitive emissions software. According to the Respondent, the valve is in light liquid service and is monitored annually (every four quarters). The Respondent noted in the compliance certification that the valve was monitored in the first quarter of 2004 and was found not to be leaking. The Respondent's failure to monitor the valve in the fourth quarter of 2003 is a violation of 40 CFR 63.168(d)(4) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 5 of Air Permit No. 2329-V0, LAC 33:III.501.C.4, the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1; and Section 2057(A)(2) of the Act.

On or about August 17, 2004, a file review of the Respondent's Reductions Plant was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

A. In the Title V annual compliance certification dated March 31, 2004, the Respondent reported that the Toluenediamine (TDA) Unit was shutdown in December 2001. According to the Respondent, the TDA Unit has not been operating since 2001, and it was believed that the unit was cleared. However, in November 2003, it was discovered that the Isopropyl Alcohol (IPA) storage tank had an IPA with water solution containing greater than 20 percent IPA. As a result, 12 valves (Nos. 026910, 026911, 026913, 026915, 026916, 026917, 026930, 026931, 026932, 267076, 267077, and 267083) on the IPA tank were not monitored in 2002. The valves are in light liquid and vapor service. The Respondent noted that the valves were monitored in 2003, and none were found to be leaking. According to the Respondent, as of March 2004, the tank has been completely emptied, and the TDA Unit has been shutdown permanently. By telephone on August 13, 2004, a representative of the Respondent stated that the valves were on an annual (every four quarters) monitoring frequency, and therefore, one monitoring in the fourth quarter of 2002 was missed for each valve. Each of Respondent's failure to monitor each of the twelve (12) valves in the TDA Unit in 2002 is a violation of 40 CFR 63.168(d)(4) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 3 of Air Permit No. 2278-V0, Part 70 Specific Condition 1 which refers to Table 3 for the TDA fugitives, LAC 33:III.501.C.4, the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1, and Section 2057(A)(2) of the Act.

B. In the Title V annual compliance certification dated March 31, 2004, the Respondent reported that the Toluenediamine (TDA) Unit was shutdown in December 2001. According to the Respondent, the TDA Unit has not been operating since 2001, and it was believed that the unit was cleared. However, in November 2003, it was discovered that the Isopropyl Alcohol (IPA) storage tank had an IPA with water solution containing greater than 20 percent IPA. The pump on this tank (Tag No. 026904) had a lock on the discharge line but not on the suction line. The pump has not been used since December 2001, but there was pressure on the seals. The pump was in light liquid service. The Respondent noted that the pump was monitored beginning in December 2003, and no leaks have been recorded. According to the Respondent, as of March 2004, the tank has been completely emptied, and the TDA Unit has been shutdown permanently. In a telephone conversation on or about August 19, 2004, with a representative of the Department, a representative of the Respondent stated that twenty (20)

monthly monitoring periods were missed. Each failure to monitor the pump monthly in the TDA Unit for twenty (20) monthly monitoring periods in 2002 and 2003 is a violation of 40 CFR 63.163(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition 3 of Air Permit No. 2278-V0, Part 70 Specific Condition 1 as required by Table 3 for the TDA fugitives of Air Permit No. 2278-V0, LAC 33:III.501.C.4, the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. 92059) approved January 8, 1996; LAC 33:III.5109.A.1, and Section 2057(A)(2) of the Act.

III

The Department has also made the following findings of fact based on a file review conducted on or about February 23, 2005, of the Respondent's Aniline Complex, which was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

In a letter dated August 6, 2004, and in the Title V semiannual monitoring report dated September 29, 2004, the Respondent reported that the maximum hourly carbon monoxide (CO) limit for the Aniline 2 Boiler (Emission Point QB) was exceeded on February 6, 2004; February 22, 2004; May 28, 2004; July 20, 2004; and July 29, 2004 during normal operations and on June 13, 2004, during start-up. Each exceedance of the maximum pound per hour CO limit as listed on the Emission Inventory Questionnaire (EIQ) of Title V Permit No. 2261-V0 for Emission Point QB is a violation of General Condition II of Title V Permit No. 2261-V0, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

IV

Respondent denies the Department's findings of fact and denies that it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THIRTY THOUSAND AND NO/100 DOLLARS ($30,000.00), of which THREE

THOUSAND THREE HUNDRED SEVENTY TWO AND 12/100 DOLLARS ($3,372.12) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

VI

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history, but Respondent may present relevant mitigating factors for the Department's consideration.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official

journal of the parish governing authority in Ascension Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

The provisions of this Settlement Agreement shall apply to and be binding upon the State of Louisiana and upon the Respondent and the officers, agents, employees, successors and assigns of both parties.

XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

RUBICON, LLC

BY: C E Phillips
(Signature)

C. E. Phillips
(Printed or Typed)

TITLE: Vice President & General Manager

THUS DONE AND SIGNED in duplicate original before me this 16th day of October, 20 06, at Gonzales, Louisiana

State of Louisiana
Parish of Ascension

Kathy M. Roy # 18199
NOTARY PUBLIC (ID # 18199)

Kathy M. Roy.
(Printed or Typed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Mike D. McDaniel, Ph.D., Secretary

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 30th day of January, 20 07, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # 20454)

Joel R. Brooks, II
(Printed or Typed)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary